

Document Log

| From | | To | |
|---------------------------------------|--|-----------------------------------|--|
| Naomi Tillison <wqs@badriver-nsn.gov> | | Christine Wagener/R5/USEPA/US@EPA | |
| CC | | BCC | |
| | | | |
| Subject | | Date/Time | |
| RE: BR Tribe - WQS--question | | 12/22/2010 03:35 PM | |
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Document Body

Hi Chris,

I will look over your response in more detail. However, when I quickly reviewed them, I have a couple initial questions.

Regarding (1) mixing zones, I thought mixing zones did not have to be allowed in standards package. When I reviewed other EPA-approved standard packages, some of them talked in detail about mixing zones and others did not mention mixing zones at all. I also reviewed the training materials from the WQS basic course and I got the impression that mixing zone policies were option and were not a required element. Do mixing zones have to be allowed in the Tribe's WQS?

Regarding (3), I'm confused about Dave's original comment (DP19) and we should discuss this issue further.

I will be out of the office, but I will be checking my email and I want to discuss our WQS further with you next week. Let me know if there's a good time to reach you on the 28th and I will give you a call to discuss.

Have a great holiday season!

Thanks,
Naomi

From: Wagener.Christine@epamail.epa.gov [mailto:Wagener.Christine@epamail.epa.gov]
Sent: Wednesday, December 22, 2010 3:26 PM
To: Naomi Tillison
Subject: RE: BR Tribe - WQS--question

Hi Naomi,

I wanted to catch back up with you before the 5th. I will be in next week, 27-29 Dec, if you wish to talk

more about these questions. I am sending you some "background work" we had crafted to approve LdF's wild rice qualitative standard, without approving the quantitative portion (50 mg/L). You may wish to compare your qualitative language against theirs, or other tribes, and against what I was able to find in the literature.

Regarding (1)b of your message: For the issuance of any NPDES permit limits, EPA will ultimately have to use some kind of mixing zone information. Not having any position or statement on mixing zones will limit any issuance of any permit, whether it be for a water treatment plant, wastewater treatment plant or any other enterprise the Tribe may decide upon in the coming years. So you may wish to consider this carefully.

Regarding (3), below: I believe, for the purposes of knowing your own water quality, you will be doing some sampling on the reservation the future. I believe any outside entity will need to sample the water quality outside of the reservation boundaries, but once the waters hit the reservation, it is up to you.

Hope you are enjoying the holidays.
Chris

From: Naomi Tillison <wqs@badriver-nsn.gov>
To: Christine Wagener/R5/USEPA/US@EPA
Date: 12/16/2010 12:45 PM
Subject: RE: BR Tribe - WQS--question

Hi Chris,

Thanks for your response. I didn't realize that you had class all week.

Good news....I just found out that today's Tribal Council meeting has been postponed, and we do not know when it will be rescheduled yet. I'm going to try to get my agenda moved to the next regular meeting, which would be 1/5/2010.

I'll be around most of tomorrow. However, I'll be out the office for a lot of next week since I have to head to Madison for a work meeting. I will be checking my email next week though.

Thanks,
Naomi

From: Wagener.Christine@epamail.epa.gov [<mailto:Wagener.Christine@epamail.epa.gov>]
Sent: Thursday, December 16, 2010 10:39 AM
To: Naomi Tillison
Subject: RE: BR Tribe - WQS--question

Hi Naomi,

I am sitting in a class Tue-Today, and have not had a chance to respond, or even consider most of your comments for that matter.

I think you can leave out the 1999 equations and actually use the 2009 equations, along with language that captures its status in "final draft" stage of approval and implementation by EPA.

1) I will have to talk with Dave about the mixing zone language, as I thought he was uncomfortable with not having any such language in there. I'll let you know what he says.

2) - 5): I have to have a bit more time to digest your questions here. I hope tomorrow is soon enough for an acceptable response.

6) WILD RICE: EPA took "No Action" on Lac du Flambeau's 50 mg/L numeric standard and approved the narrative. However, we have had additional meetings with LdF to help them understand that taking out the number is the most prudent step we can recommend at this time. We will, thus, take "No Action" on your 10 mg/L numeric standard and it will leave us all "hanging" with an "issue" regarding your final WQS.

The problem comes when, after months (years) of working with you, the Tribe, on the standard, our choice on action is *very limited* when it comes to our receipt of your final version.

Our Choice: 1) approve, or 2) disapprove your WQS. And, like LdF, we then have to justify in writing why we are withholding action on the numeric standard. It puts us on the hook to answer the issue; problem is, we're *all* working on understanding and resolving the issue and -- it may take a couple of years to reach a final conclusion on what range is actually scientifically defensible as protective of wild rice.

Thus, keeping in the 10 mg/L standard will continue to be problematic.

You might consider inserting a statement in your narrative addressing the controversial nature of the numeric standard, and while a range is being discussed, there are a number of other factors that are also key to the preservation of wild rice. If you give me a bit of time (my schedule opens up after Friday!), I can work with you on "perfecting" this language.

Hope this helps in allowing your WQS continued movement toward public presentation. It is the best I can give you at this time.

Sincerely,

Chris

Christine M. Wagener, Ph.D.

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From: Naomi Tillison <wqs@badriver-nsn.gov>

To: Christine Wagener/R5/USEPA/US@EPA

Date: 12/13/2010 03:52 PM

Subject: RE: BR Tribe - WQS--question

Hi Chris,

I fixed the wording on p.15 that you discussed under #1 in the email below.

Thank you for the ammonia info! I did have a question regarding the ammonia placeholder language. Am I supposed to keep the 1999 equations in our standards and add this placeholder language to this section? Or do I get rid of the 1999 equations and just include the placeholder language? Let me know if you get comments on this placeholder language from your end.

Here are the other edits I made in our draft WQS document since the version I sent you last week:

- (1) I took out any mixing zone language in our draft WQS as the Tribe decided that they did not want to allow mixing zones (note: this resolves comment DP4). The following sections were removed or revised:
 - a. (c) Applicability...: statement (3) was removed
 - b. (d) Definitions: the mixing zone definition was removed
 - c. (e)(4) Narrative criteria for aesthetic water quality: statement (iv) was revised (refer to p.10 of the attached version).
 - d. (e)(5) General narrative criteria: statements (i) and (v) were revised (refer to p.10 of the attached version).
 - e. (e)(6) Specific numeric criteria: the pH criteria (statement (ii)) was revised (refer to p.10-11 of the attached version).
- (2) I added statement (C) under our Antidegradation Implementation for Outstanding Tribal Resource Waters (under section (e)(3)(c)): "Actions undertaken by the Tribe to restore culturally important species and their habitats" (refer to p.9 of the attached version).
- (3) In response to the comment DP19, I wanted the applicant (and not the Bad River Water Resources Program) to be responsible for collecting water quality data if additional data was needed to show that the proposed activity would not degrade the water quality beyond the waterbody's designated use. I wasn't quite sure how to address this issue so I would appreciate your input on the following changes I made:
 - a. Deleted some of wording under statement (i) in the Antidegradation Implementation section (refer to p.7 of the attached version).
 - b. Added D. Water Quality Assessment under the antidegradation demonstration sections for EWR and for ORW (refer to p.8 of the attached version).
- (4) Waters were added to the OTWR and OWR lists (refer to p.6 of the attached version).
- (5) In regards to comment DP27, I have kept the designated uses associated with aquatic life separate (i.e., cold and cool water fisheries are separate DUs and are not sub-categories of the Aquatic Life and Fish DU). In the proposed Lac du Flambeau WQS document, it looks like they have these 3 separate DUs. If we keep it as it is, will this be an EPA approval issue? The DUs are described on page 12 of the attached version.
- (6) The sulfate numeric criteria is back in this version. Can you clarify what will happen if the sulfate numeric criteria is left in the BR proposed WQS? I get the impression that EPA will not approve it at this time, but if it is kept in, can EPA do a partial approval (meaning approve the rest of the proposed WQS package excluding this numeric criteria)? I'm just trying to get a better handle of the sulfate situation as I know the Tribal Council will be inquiring about this issue.

Let me know your comments on the edits I made. I'm scheduled to go in front of the Council on this Thursday (12/16) so I need to resolve outstanding issues by late morning on 12/16. If I can't, then I will to postpone going in front of the Council until the beginning of January (but I am trying to avoid this if possible).

Let me know if you have questions on the changes I made. Thanks for all your help!
Naomi

Naomi Tillison

Water Resources Specialist

Bad River Natural Resources Department

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From: Wagener.Christine@epamail.epa.gov [<mailto:Wagener.Christine@epamail.epa.gov>]

Sent: Friday, December 10, 2010 3:31 PM

To: Naomi Tillison

Subject: RE: BR Tribe - WQS--question

Hi Naomi,

I took a look at the document once more.

1. I did note on page 15 (highlighted) the use of the phrase " where the Tribe demonstrates that the Great Lakes Guidance methodology is not scientifically defensible, . . ."

When I reviewed the WQS earlier, I wasn't clear on the rationale for this, especially since in some cases 132.6 is more stringent, and Pam was not able to explain more fully what was intended. Might you consider saying something like,

"Where more stringent criteria is determined to be necessary for protection of Tribal waters," . . . the applicable criteria will be the more protective value of either the most recent US EPA published criteria recommendations. . . .

2. I have crafted some wording for your "placeholder" on ammonia. I am running it by some folks here, but I know it's late and wished to get you a copy immediately. However, I might send you something in a half hour that is slightly different. But I think this sounds reasonable.

(10) Placeholder. Since 1999, when EPA published the national Ammonia criteria, additional science has emerged on species sensitivity to ammonia that has necessitated revision of the 1999 equations. The revised equations identified in the final draft EPA criteria for ammonia are now in their ultimate stages of development and approval. When they are released, they will immediately take effect in this WQS. Until then, the Tribe will consult the latest guidance on EPA's online Causal Analysis/Diagnosis Decision Information System (CADDIS), <http://www.epa.gov/caddis>.

Please notify me when you receive this. If I don't hear from you, I may call to give you a "heads up" that it's in your mailbox.

Chris

From: Christine Wagener/R5/USEPA/US
To: Naomi Tillison <wqs@badriver-nsn.gov>
Date: 12/09/2010 05:33 PM
Subject: RE: BR Tribe - WQS--question

Almost forgot: On selenium

<http://water.epa.gov/scitech/swguidance/waterquality/standards/criteria/aqlife/pollutants/selenium/fs.cfm>

It was suggested that you identify the section on ammonia as a "placeholder." Regulation/criteria expected sometime around March.

No word on progress of final Se criteria.

Chris

From: Naomi Tillison <wqs@badriver-nsn.gov>
To: Christine Wagener/R5/USEPA/US@EPA
Date: 12/09/2010 03:45 PM
Subject: RE: BR Tribe - WQS--question

No. I still need to:

- Add a separate mixing zone section (comment dp4)
- Possibly add a waterbody or two to the OTRW (Tier 3) or ORW (Tier 2.5), but the vague language has been removed (comment dp17)
- Comment dp19 still needs to be addressed
- Comment dp21 regarding figuring out the public participation process has not been addressed, but this is

not a approval issue so we are hoping to nail down these details later

- Comment dp27 – regarding aq life & fish uses – we had some email correspondence in the last day or two, but I haven't actually changed anything in the document yet
 - Comment DP31/C32/C34 – ammonia – we discussed, but this hasn't been changed – awaiting EPA response
- The rest of the EPA comments have been addressed, but I will be working on the rest tonight/tomorrow.

From: Wagener.Christine@epamail.epa.gov [<mailto:Wagener.Christine@epamail.epa.gov>]

Sent: Thursday, December 09, 2010 3:13 PM

To: Naomi Tillison

Subject: Re: BR Tribe - WQS--question

Naomi,

Quick question! Have you incorporated all of our comments received into this document?

Chris

From: Naomi Tillison <wqs@badriver-nsn.gov>
To: Christine Wagener/R5/USEPA/US@EPA
Date: 12/09/2010 02:10 PM
Subject: BR Tribe - WQS

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[attachment "BR_WQS_Draft_proposed_12-9-10.doc" deleted by Christine Wagener/R5/USEPA/US]

[attachment "BR_WQS_Draft_proposed_working_12-10-10.doc" deleted by Christine Wagener/R5/USEPA/US]